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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

TARLOK SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-74818

Agency No. A73-402-565

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 16, 2005^{**}
San Francisco, California

Before: GOODWIN, O'SCANNLAIN, and TALLMAN, Circuit Judges.

Petitioner Tarlok Singh seeks review of the Board of Immigration Appeals' (BIA) denial of his untimely and number-barred motion to reopen deportation proceedings. To the extent we have jurisdiction, it arises under 8 U.S.C. § 1252

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and The REAL ID Act, Pub. L. No. 109-13, 119 Stat. 231, Div. B, § 106(d) (May 11, 2005).

We lack jurisdiction to review Singh's claim that the BIA should have exercised its *sua sponte* authority to hear his number-barred motion to reopen. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

Singh also claims that the time and number limits on motions to reopen should be equitably tolled because of his former counsel's ineffective assistance. Specifically, his former counsel did not discuss *In re Velarde-Pacheco*, 23 I. & N. Dec. 253 (2002), in his first motion to reopen.

When a time limit is equitably tolled, an event "simply stops the clock until the occurrence of a later event that permits the statute to resume running." *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1195 (9th Cir. 2001) (en banc). *Velarde-Pacheco* was decided after Singh's ninety days expired. Therefore, the time limit cannot be tolled because there was no vital information to discover or event to stop the clock before his ninety days passed.

It would "serve no purpose" to toll the number limit when time limit cannot be tolled. *Cf. Varela v. INS*, 204 F.3d 1237, 1240 (9th Cir. 2000) (tolling the number limit because it would "serve no purpose" to toll the time limit alone when a worthless motion had been filed earlier). Even if the number limit were tolled,

Singh could obtain relief only if the BIA invoked its *sua sponte* authority to reopen his case on its own motion.

The petition for review is DISMISSED in part and DENIED in part.